

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**THE UNITED STATES OF AMERICA
for the use of PROTEK CONTRACTORS, INC.,
d/b/a Budget Plumbing, f/k/a Budget Plumbing,**

Plaintiff,

vs.

No. CIV 02-0602 RB/WDS

**DALCO INCORPORATED OF ARIZONA,
d/b/a DIA, Inc. a foreign corporation,
and MID-STATE SURETY CORPORATION,
a foreign corporation,**

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER came before the Court on Plaintiff's Motion to Enforce Settlement Agreement (Doc. 55), filed on December 21, 2004, and Plaintiff's Amended Motion to Enforce Settlement Agreement (Doc. 56), filed on December 22, 2004. Jurisdiction is founded upon 28 U.S.C. § 1331. I have considered the submissions of the parties, relevant law, and being otherwise fully advised, I will grant the motion.

Plaintiff seeks to enforce the October 20, 2004 settlement agreement. In the amended motion, Plaintiff states that the parties settled the matter for \$13,000.00, with \$3,000.00 due immediately and four additional equal monthly payments of \$2,500.00 due on the 5th of each consecutive month commencing November 5, 2004 until paid in full. Defendant Dalco does not dispute that the parties agreed to settle the case for \$13,000.00, but states that no strict schedule of payments was part of the agreement. Dalco states that seven days after the settlement documents are signed, it will pay the \$3,000.00 with four additional payments of \$2,500.00.

On October 20, 2004, Counsel for Dalco notified the Court of the settlement agreement. Based on this representation, the Court vacated the October 25, 2004 trial setting. More than four months have elapsed since that time. This matter has been pending for almost three years. Under these circumstances, I find that the motion to enforce settlement agreement should be granted. Counsel are directed to submit closing documents to the Court by April 1, 2005. Failure to submit the documents as ordered will result in a show cause hearing set in Las Cruces, New Mexico.

IT IS SO ORDERED.



ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE